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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,349	09/09/2003	Phillip Lu	MS1-1579US	2125
22801	7590	08/23/2007	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			PAUL, DISLER	
			ART UNIT	PAPER NUMBER
			2615	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/658,349		LU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Disler Paul		2615	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-24 is/are allowed.
- 6) ☒ Claim(s) 1-7;25-28;29-33;34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/9/03 and 1/24/07</u> .                                      | 6) <input type="checkbox"/> Other: ____                           |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
2. Claims 1-7; 25-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Takenaka et al. (US 6,807,450 B1).

RE claim 1, Takenaka et al. disclose a method comprising:  
receiving a request to play a first audio file and a second audio file  
(fig.1, wt (16,10); col.8 line 35-50; fig.3/user may request  
reproduction of compressed audio files; col.9 line 35-40); identifying  
a first effective start position associated with the first audio file  
and identifying a fade-out position associated with the first audio  
file (fig.2 (ta1,tb1); fig.3,5; col.10 line 1-15); identifying a  
second effective start position associated with the second audio file  
(fig.2-3 (ta2), col.10 line 15-24); playing the first audio file from  
the first effective start position; upon reaching the fade-out  
position associated with the first audio file and fading-out playback

Art Unit: 2615

of the first audio file and playing the second audio file from the second effective start position (col.4 line 10-25; fig.2; col. 8 line 20-33; col.14 line 5-30).

Re claim 2, the method as recited in claim 1 wherein the fade-out position is located a predetermined time ahead of an effective end position associated with the first audio file (fig.2 (tbl, shaded area), as effective end of file song).

Re claim 3, the method as recited in claim 1 wherein the first effective start position differs from the start of the first audio file (fig.2 wt (tal,T); col.9 line 17-21).

Re claim 4, the method as recited in claim 1 further comprising fading-out playback of the second audio file upon reaching a fade-out position associated with the second audio file (fig.2 (tb2), fig.5; col.12 line 25-29).

Re claim 5, the method as recited in claim 1 wherein the first effective start position and the fade-out position associated with the first audio file are stored in a media library (fig.1 (6,7); col.8 line 40-50).

Re claim 6, the method as recited in claim 1 wherein the first effective start position and the fade-out position associated with the

Art Unit: 2615

first audio file are stored in the first audio file (fig.2; col.9 line 18-30).

Re claim 7, One or more computer-readable memories containing a computer program that is executable by a processor to perform the method recited in claim 1 (see claim 1 rejection above).

Re claim 25, Takenaka et al. disclose of the apparatus comprising: a cross-fade parameter calculator to analyze an audio file and calculate at least one fade-out parameter associated with the audio file (fig.1 (15); col.10 line 10-16; col.9 line 55-60); a media library coupled to the cross-fade parameter calculator, the media library to store fade-out parameters associated with a plurality of audio files (fig.1 (6,7)); However, Takenake et al. is silent in regard of the specific limitation of having the cross-fader coupled to the media library, wherein the cross-fader to apply fade-out parameters during playback of audio files. However, Takenaka et al. did disclose of having audio data in which fading is being applied to (fig.5; col.12 line 10-29), thus with the above, disclosure it is inherent of the existence of the cross-fader coupled to the media library, wherein the cross-fader to apply fade-out parameters during playback of audio files.

Re claim 26, the apparatus as recited in claim 25 wherein the cross-fade parameter calculator calculates an effective start position associated with the audio file (fig.2 (ta)).

Re claim 27, the apparatus as recited in claim 25 wherein the cross-fade parameter calculator calculates an effective end position associated with the audio file (fig.2 (tb)).

Re claim 28, the apparatus as recited in claim 25 wherein the cross-fader retrieves fade-out parameters from the media library (see claim 25 rejection explanations).

Re claim 29, Takenaka et al. disclose of the apparatus comprising: means for receiving a request to play a first audio file followed by a second audio file (fig.1 (16)); means for identifying a first effective start position associated with the first audio file, a fade-out position associated with the first audio file, and a second effective start position associated with the second audio file (fig.2; fig.1 (15)); and means for playing the first audio file from the first effective start position, wherein upon reaching the fade-out position associated with the first audio file, the means for playing fades-out playback of the first audio file and begins playing the second audio file from the second effective start position (fig.2; col.4 line 10-25; fig.2; col. 8 line 20-33; col.14 line 5-30).

Re claims 30-31 have been analyzed and rejected with respect to claims 2,4 respectively.

Re claim 32, the apparatus as recited in claim 29 wherein the start position associated with the first audio file, the fade-out position associated with the first audio file, and the second effective start position associated with the second audio file are retrieved from a media library (fig.1 (6-7); fig.5; col.12 line 50-55 & line 10-30).

Re claim 33, the apparatus as recited in claim 29 wherein the start position associated with the first audio file and the fade-out position associated with the first audio file are retrieved from the first audio file (fig.2 (T1, 1<sup>st</sup> song), incorporate all the first start and fadeout information).

Re claim 34, Takenaka et al. disclosed One or more computer-readable media having stored thereon a computer program that, when executed by one or more processors (fig.1), causes the one or more processors to: receive a request to play a sequence of audio files (fig.1 (16)); calculate a first effective start position associated with a first audio file (fig.2 wt (T,tal)); calculate a fade-out

Art Unit: 2615

position associated with the first audio file (fig.2 wt (tb1)); calculate a second effective start position associated with a second audio file and play the first audio file from the first effective start position (fig.2 wt (ta2)); upon reaching the fade-out position associated with the first audio file: fade-out playback of the first audio file and play the second audio file from the second effective start position (col.4 line 10-25; fig.2; col. 8 line 20-33; col.14 line 5-30).

Re claim 35, One or more computer-readable media as recited in claim 34 wherein the fade-out position associated with the first audio file is calculated by subtracting a predetermined time period from an effective end position associated with the first audio file (col.8 line 20-33 wt (silent is removed at position ends)).

Re claim 36, One or more computer-readable media as recited in claim 34 wherein the one or more processors further fade-out playback of the second audio file upon reaching a fade-out position associated with the second audio file (fig.1 (4,15); fig.2).

Re claim 37, One or more computer-readable media as recited in claim 34 wherein the one or more processors further calculate effective start positions and fade-out positions associated with each audio file in the sequence of audio files (fig.2).



***Allowable Subject Matter***


Claims 8-15; 16-24 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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